
IMPORTANT!

BE SURE TO READ

The Special Committee ordered by the 15th Constitutional Convention to prepare and distribute this pamphlet consists of:

Richard F. Upton, Concord, President of the Convention.

William L. Phinney, Goffstown, Chairman,

William S. Lord, Gilford, Vice Chairman,

Committee on Time and Mode of Amending Constitution.

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Elmer Bourque, Manchester, Chairman,

Winslow Osborne, Concord, Vice Chairman,

Committee on Form and Style of Amending Constitution.



VOTERS' GUIDE

TO

PROPOSED AMENDMENTS
TO CONSTITUTION OF
THE STATE OF NEW HAMPSHIRE

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To Appear on a Special Ballot at Election
on November 3, 1964

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Recommended by the
15th Constitutional Convention
at its sessions of May 13-
June 10, and July 8, 1964

**ALL EIGHT QUESTIONS
HAVE BEEN
ENDORSED BY 1964
PLATFORMS OF BOTH
MAJOR POLITICAL PARTIES**

REPUBLICAN PLATFORM:

"We favor the passage of all eight amendments to the State Constitution proposed by the Constitutional Convention."

DEMOCRATIC PLATFORM:

"We pledge to favor the constitutional amendments proposed by the Constitutional Convention of 1964."

TO THE VOTERS OF NEW HAMPSHIRE:

This pamphlet was ordered, prepared and distributed, at the expense of the State, by the Convention to Revise the Constitution, which met May 13-June 10 and July 8, 1964.

Its purpose is to help you, when you vote on November 3, 1964, to understand eight proposed amendments to the New Hampshire Constitution which were approved by the Convention.

PLEASE REMEMBER: In order to amend the Constitution, two-thirds of the people voting on an amendment must vote Yes. A simple majority will not amend the Constitution. Also, even if enough voters vote Yes so as to adopt any amendment, it will not be effective, in most cases, until the Legislature passes one or more laws for that purpose.

At the November, 1964 Election you will receive a separate, non-partisan ballot on which you will be asked to answer eight questions, which summarize these proposed amendments. You may answer by voting Yes or No, as you choose. These eight questions and the Convention's authorized explanation of each amendment are as follows:

QUESTION NO. 1

1. Are you in favor of permitting the legislature
(a) to propose and submit to the voters for their approval amendments to the Constitution, provided the same shall be voted by three-fifths of the entire membership of each house voting separately; and (b) to submit to the voters by a majority vote of the entire membership of both houses, voting separately, the question whether or not a convention shall be called to amend the Constitution; in the absence of such vote the question to be submitted by the secretary of state at the general election in the tenth year following the last submission, instead of every seventh year as now?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, an amendment to the Constitution can be proposed to the voters only by a Constitutional Convention. A Constitutional Convention may be called once in every seven years, if the voters of the state so vote.

The Legislature may not propose constitutional amendments to the voters. New Hampshire is the only state in the United States

which does not permit the Legislature to propose amendments; the legislatures of the other 49 states now have this power.

It costs approximately \$100,000 to hold an ordinary session of our Constitutional Convention (which has 462 delegates); and this is a high cost for proposing constitutional amendments.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 1, a constitutional amendment may be proposed to the voters whenever it is approved by a 60% majority of the entire membership of each house of the Legislature, voting separately, at any session. However, there will be no change in the present rule that a constitutional amendment may only be adopted by a two-thirds' majority of the voters.

The Constitutional Convention would not be entirely abolished, but the question of calling one must be submitted to the voters only once in every ten years, instead of every seven years as now. In case of special need, the Legislature, by majority vote of the entire membership of each house voting separately, could still propose at any time to the voters the question whether a Constitutional Convention should be called at once.

By giving the Legislature the power to propose constitutional amendments and by providing a way to reduce the frequency of Constitutional Conventions, the present high cost of proposing constitutional amendments to the voters should be substantially reduced in the future. However, the voters could still call a Constitutional Convention, after a reasonable interval, if dissatisfied with the action or inaction of the Legislature.

QUESTION NO. 2

2. Are you in favor of repealing the constitutional provision that twice as much population is required to entitle a town or ward to its second and each successive representative in the house of representatives as for the first representative, so that the representation of the various towns, wards, places and representative districts will be as equal as circumstances will admit, without dividing towns, wards and places?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, it takes twice as much population to entitle each town or city ward to its second and additional representatives to our House of Representatives, as for its first repre-

sentative. For example, a town of about 800 people is entitled to one representative, while a town or city ward of about 1,600 people is also entitled to only one representative, instead of the two to which it would be entitled if its representation were proportional to population.

This provision of our Constitution is believed by the Attorney General of New Hampshire and the Federal District Court in this state to be probably in conflict with the Fourteenth Amendment to the United States Constitution, as it has been interpreted in recent U. S. Supreme Court decisions, which say that state legislatures must be apportioned, as nearly equal as practical, on the basis of population. If this question is not voted Yes, there is a real danger that our House of Representatives will eventually be re-apportioned by federal court decree, rather than by our own Legislature to whom the job should belong.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 2, the Legislature will be able, from time to time, to make a re-apportionment of the House of Representatives, according to the most recent census, as equal as the circumstances will admit, among the various towns, city wards, and new representative districts created, but without dividing any town or city ward. The proposed amendment is worded broadly enough not only to permit compliance with present federal constitutional law but also to give our Legislature a moderate latitude for change, in case of future changes in such federal law, so long as they act consistently with reasonable equality. This amendment will not increase the size of the House, nor by itself reduce it.

QUESTION NO. 3

3. Are you in favor of amending the Constitution to empower the general court to district those towns, wards or unincorporated places which are too small to be entitled to one full time representative in the house of representatives so that each such district will be entitled to one or more full time representatives in the house of representatives, the boundaries of towns, wards and unincorporated places to be preserved and those forming one district to be reasonably proximate to one another?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, if a town has less than about 800 people for example, it is not entitled to a full-time representative in our House of Representatives, and may send a representative only on a "part-time" basis, although at least to one session in every ten years no matter how small its population. At the present time, there are 108 of these "part-time" towns with a total population of 43,317, who do not get full-time representation in our House of Representatives.

It is believed by the Attorney General of New Hampshire and the Federal District Court in this state that failure to grant full time representation to these particular towns probably violates the Fourteenth Amendment to the U. S. Constitution as interpreted by the U. S. Supreme Court. Failure to correct this matter can very likely lead to federal court orders re-apportioning such parts of the state, without regard to the wishes of the people of the state as expressed through their elected representatives.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 3, the Legislature will be able to put together representative districts which take in such "part-time" towns, so that each district will be large enough to have one or more full-time representatives. In this way, the 43,317 people in the 108 "part-time" towns will get "full-time" representation in our House of Representatives. Districts must be formed from towns, wards and places which are close to each other. This amendment will not increase the size of the House, nor by itself reduce it.

QUESTION NO. 4

4. Are you in favor of amending the Constitution to apportion the senate districts on the basis of population as equally as possible without dividing any town, ward or place? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, senators are chosen to our Senate from districts which are supposed to contain equal amounts of taxable property. No attention need be given to the population, so that now the largest senatorial district has about three times as much population as the smallest. New Hampshire is the only state to use this method of apportionment, and its continuance is of doubtful logic, as the state government is no longer supported by the property tax.

The election of senators from property-based districts, without reference to population, is believed by state and federal legal authorities to be probably in conflict with the Fourteenth Amendment to the United States Constitution, as it has been interpreted in recent U. S. Supreme Court decisions, which say that state legislatures must be apportioned, as nearly equal as practical, on the basis of population. If this question is not voted Yes, there is real danger that our Senate will eventually be reapportioned by federal court decree, rather than by our Legislature to whom the job should belong.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 4, the Legislature will be able to reapportion our Senate into senatorial districts containing as nearly equal numbers of people in each district as is practical, but without dividing any towns and city wards. This amendment will not change the size of the senate.

QUESTION NO. 5

5. Are you in favor of amending the Constitution to increase the size of the senate from 24 to 30, and to provide that whenever less than two-thirds of the senators are present the assent of two-thirds of those present shall be necessary to take valid action? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, our Senate consists of 24 members. When all senators are present, it takes 13 votes to pass or defeat a bill. When only 16 senators are present, it takes only 9 votes. In practice one or two senators, going either way, can pass or kill a bill which may have received over 200 votes in the House. The small size of the senate also makes the committee duties of the senators very strenuous.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 5, the Senate will be increased in size from 24 to 30 senators, which will help to distribute power and workload more reasonably. Up to a point, there is a certain greater safety in numbers.

The proposed increase of 6 in the Senate might possibly be offset by an equal reduction in the size of the House, (which is now set at a minimum of 375 and maximum of 400), if the Legislature so decided at the time of the next re-apportionment of the House.

QUESTION NO. 6

6. Do you favor establishing compensation for presiding officers of the legislature at five hundred dollars and for all other members at two hundred dollars for each elected term, plus a per day sum for each day attended determined by the general court not to exceed fifteen dollars and a travel allowance at the same rate as provided for all state officials and employees; said compensation limited to ninety legislative days or the thirtieth day of June, biennially, whichever occurs first; compensation for special sessions at the same rate but not to exceed fifteen days?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, the members of each house of our Legislature receive \$200 as salary for a two-year term, with the two presiding officers receiving \$250 each. This figure has remained unchanged since 1889, although the purchasing power of the dollar is much less today than then. For special sessions, the additional salary is three dollars per day for not exceeding 15 days, also dating from 1889. In addition, members draw mileage to and from home, for each day of actual attendance, for not over ninety days and not after July 1 at regular sessions, and for not over 15 days at special sessions. Present mileage rates are 25c per mile for first 25 miles, 20c per mile for next 20 miles, 8c per mile for next 25 miles, 6c per mile for next 25 miles, and 5c per mile for every mile in excess of 95. Even so, New Hampshire Legislators are just about the lowest paid in the Nation.

Under these rates, the total salary and mileage cost of a biennial session of our Legislature is now about \$525,000.00; and the average sum paid to each member is about \$1,235.00 including mileage.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 6, the base salary of each member of the Legislature will be kept at two hundred dollars for a two-year term, with the two presiding officers receiving five hundred dollars each in view of their extra duties and responsibilities. In addition, each member will be paid a per diem amount for each day of actual attendance, to be set by the Legislature from time to time, but not exceeding a maximum of \$15.00 per day, plus a reduced daily mileage to and

from home set at the standard rate for all state employees (about 8c per mile) for not over ninety days and not after June 30 at regular sessions, and for not over 15 days at special sessions. If the Legislature sets the per diem compensation for attendance at \$10.00, the additional cost per biennial session would be about \$120,000, with the average paid each member about \$1,500 including mileage. If the Legislature adopts the maximum per diem compensation of \$15.00, the additional cost per biennial session would be about \$280,000, with the average paid each member about \$1,900 including mileage.

Even with these increases, the average individual compensation paid to our legislators would be on the low side as compared with most other states, and our overall appropriation for the Legislative Department per biennium would be approximately equal to that of Vermont and Maine (if estimated on the basis of their latest rates of pay and mileage).

QUESTION NO. 7

7. Are you in favor of amending the Constitution to give the legislature more flexible taxing powers as follows: to tax tangible personal property classified on basis of kind or use but not amount; to tax other subjects of taxation, except real estate, classified on basis of kind, use or amount; provided that the highest tax rate of any graduated tax such as on incomes or inheritances may not be more than three times the lowest tax rate thereon; with power to make different but uniform tax rates and exemptions for each class?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, the Legislature has the power to pass the more common forms of taxation such as a sales tax, an income tax, an inheritance tax, a franchise tax, a general property tax, and so forth. (These powers have never been fully used by our Legislature for various reasons). These powers to tax are, however, limited by certain rigid rules. In general, all these taxes must be laid at a common, flat rate, with the sole exception of those things which are exempted from taxation altogether. Within the frame-

work of a particular tax, it is not possible to classify things according to reason and justice and to tax some things at lesser rates than others. For example, this means that all incomes, which are taxed, must be taxed at the same flat rate, regardless of whether the income of the taxpayer is large or small. All inheritances, which are taxed, must be taxed at the same flat rate, regardless of whether the estate of the deceased is large or small, and regardless of whether the legatees are the immediate family, or no relation to the deceased. All sales, which are taxed, must be taxed at the same flat rate, regardless of whether the sales taxed are of necessities or luxuries, or are of low profit or high profit items. The Legislature has no power to grant tax relief to stock-in-trade and other taxable kinds of personal property; such things must be taxed at the general property tax rate, which is often unjustly high and harmful to business expansion and full employment in those industries and businesses handling such things. These are a few typical examples of how the present rules operate.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 7, the Legislature would have the power to classify various kinds of tangible personal property, such as stock-in-trade, for example, and to grant property tax relief to particular kinds by lowering the rate of tax to a reasonable and just rate. The Legislature would have the power to tax inheritances at a lower rate on legacies to relatives than on legacies to persons who are no relation to the deceased. The Legislature would have the power to tax sales of certain kinds of goods at lower rates than others, where need to do so is shown. The Legislature would have the power to tax incomes at rates graduated according to amount of income, with lower rates on lower incomes and higher rates on higher incomes; provided that the rate laid on the highest income bracket could not exceed three times the rate laid on the lowest income bracket. The power to make reasonable tax exemptions by class would be made clear. These are a few typical examples of how the proposed amendment would operate. Please remember that taxation of land and buildings, at common rates for all taxpayers in each community, would not be changed. A graduated tax on tangible personal property would not be permitted.

However, adoption of Question No. 7 will not by itself change any of our present tax laws or levy any new taxes. While the powers of the Legislature would be changed, it would still be up to the Legislature whether, when and how to use any of the new powers, if granted.

QUESTION NO. 8

8. Are you in favor of an amendment to article 12, Part I of the Constitution so as to strike out the reference to buying one's way out of military service? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, our Bill of Rights contains two obsolete provisions allowing persons called up for military service by the State to buy their way out of the service by a payment of money. These two provisions are almost wholly obsolete now, as the drafting of manpower in time of emergency is today handled by the Federal Government. If these provisions have any limited application today, they are so contrary to present-day ideas of fairness that they ought to be repealed.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 8, these two obsolete and unjust provisions will be stricken from our Constitution.

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When in your voting booth on November 3, 1964, please vote as you believe on these Constitutional Amendments, but **BE SURE TO VOTE!**

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